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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,997	09/11/2003	Carl E. Linton	JL-03CVAC0001	8998
7590 Carl E Linton 44507 L A Paz Road Temecula, CA 92592			EXAMINER CHENG, JOE H	
			ART UNIT 3714	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/659,997

Applicant(s)

LINTON, CARL E.

Examiner

Joe H. Cheng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: <u>12/10/03 and 4/28/06</u>                                     | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed structural element of the user sensor, the first software program, the second software program, the information processing system, and a second kiosk controller, and all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, must be shown or the feature(s) canceled from the claim(s). *No* new matter should be entered. Correction is required.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Marked-up Drawings" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d). Failure to

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timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 10-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The description of all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, and the claimed structural elements of the kiosk controller comprising first software program and the information processing system, the master controller comprising the second software program and the information processing system, and a second kiosk controller are lacking. Without a clear description of the claimed invention, one ordinary skill in the art cannot practice the invention without undue experimentation. ***NO NEW MATTER*** should be entered.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10-39 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation therein is unclear, confusing and indefinite, because the references for all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, and the claimed structural elements of the kiosk controller comprising first software program and the information processing system, the master controller comprising the second software program and the information processing system, and a second kiosk controller are unclear.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-5, 34 and 35 are rejected under 35 U.S.C. 102(a) as being anticipated by Kutt et al (U.S. Pat. 6,565,624 B2). The teaching of Kutt et al broadly discloses the pressure vessel unit and method for providing the cyclic variations in altitude conditioning comprising the hermetic sealed pressure vessel (50) having the on-board interface (column 5, lines 16-35) for the user to

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initiate a session of cyclic variations in altitude conditioning and to determine the measured parameter of the user's body condition for cyclically operating the blower to create a negative pressure or cyclically operating the proportioning valve to reduce the negative pressure (column 5, lines 11-15), the pressure transducer for monitoring the air pressure inside the pressure vessel (column 5, lines 9-10), and the user sensor for measuring one or more parameters of a user's body condition (column 5, lines 1-2). See Figs. 14-18 and from column 3, lines 5 to column 4, line 2, from column 4, line 43 to column 5, line 35, from column 7, line 54 to column 10, line 17, column 11, lines 6-43.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kutt et al (U.S. Pat. 6,565,624 B2) in view of Carmein et al (U.S. Pat. No. 5,490,784). It is noted that the teaching of Kutt et al does not specifically disclose the external master controller (as per claim 6)

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as required. However, the teaching of Carmein et al broadly discloses that such feature of the external master controller (35) for electrical communicating with the on board interface to monitor and control the function of the vessel (20) is old and well known. Hence, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Kutt et al with the feature of the external master controller as taught by Carmein et al as both Kutt et al and Carmein et al are directed to the pressure vessel unit, so as to provide the electrical communication with the on board interface to monitor and control the function of the vessel.

10. Claims 10-30 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kutt et al (U.S. Pat. 6,565,624 B2) in view of Carmein et al (U.S. Pat. No. 5,490,784) and further in view of Robarts et al (U.S. Pub. No. 2002/0083025 A1). It is noted that the teachings of Kutt et al and Carmein et al do not explicitly disclose the kiosk controller (regarding to claims 10 and 24), the second kiosk controller (regarding to claims 23, 27 and 28), and require the user to pay for a session (as per claims 24 and 36-39) as required. However, the teaching of Robarts et al broadly discloses that such features of using more than one of the kiosk controller in different location (see paragraph [0056]) and require the user to pay for a session (see paragraph [0206] and [0223]) are old and well known. Hence, it would have been obvious to one of ordinary skill in the art to modify the system and method of Kutt et al and Carmein et al with the features of the kiosk controllers and required payment from the user as taught by Robarts et al as both Kutt et al, Carmein et al and Robarts et al are directed to the system and method for cyclic variations in altitude conditioning, so as to provide the different location of the kiosks for the user to pay the payment for a session of cyclic variations in altitude conditioning in the system.

*Conclusion*

11. It appears that applicant is claiming more than one independent and distinct invention. Under 37 C.F.R. §1.142, the requirement for restriction may be required in the future action. Further, the prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schueller (U.S. Pat. No. 3,073,040) discloses the multi-purpose space capsule. Galerne (U.S. Pat. No. 4,427,385) teaches the mixed gas bell diving deep ocean simulator. Vykukal (U.S. Pat. No. 4,678,438) discloses the weightlessness simulation system and process. Chandler, Jr. et al (U.S. Pat. No. 4,835,983) teaches the kiosk with air conditioning. Puma et al (U.S. Pat. No. 5,318,018) discloses the advanced aircrew protection system. Brill et al (U.S. Pat. No. 5,360,001) teaches the hyperbaric chamber closure means. Gamow (U.S. Pat. No. 5,467,764) discloses the hypobaric sleeping chamber. Marumo (U.S. Pat. No. 5,531,644) teaches the space game floater apparatus. Sussingham (U.S. Pat. No. 5,718,587) discloses the variable gravity simulation system and process. Neeley et al (U.S. Pub. No. 2004/0006926 A1) teaches the climate controlled practice facility and method utilizing the same. Than et al (U.S. Pat. No. 6,719,564 B2) discloses the space simulation chamber and method. Herbert et al (U.S. Pub. No. 2005/0008991 A1) teaches the simulator and method for performing underwater submarine escape training.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (571)272-4433. The examiner can normally be reached on Tue. - Fri..

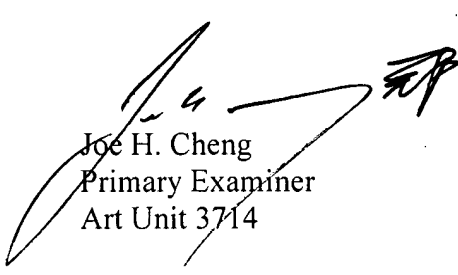
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joe H. Cheng  
January 21, 2007



Joe H. Cheng  
Primary Examiner  
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